



# *Board of Health*

November 3, 2011 – 8:30 a.m. - **Minutes**  
1213 Purchase Street, New Bedford

View Agenda

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Present: Patricia Andrade, M.D., Chairperson  
Dr. James Schweidenback. Member  
Athena Xifaras, M.D., Member

Also Present: Marianne B. De Souza, Director of Public Health;  
Michael E. Antaya, Chief Sanitarian;  
Attorney Shannon Shreve, Assistant Solicitor

## CALL TO ORDER

1. Dr. Andrade called the meeting to order at 8:40 a.m. Dr. Andrade called roll with herself Dr. Schweidenback present and Dr. Xifaras present. Dr. Andrade called for a motion to table the review of the October 13, 2011 minutes.

MOTION: by Dr. Schweidenback to table the minutes that were held on October 13, 2011.

SECONDED: Dr. Xifaras. All in favor. MOTION CARRIES.

## ACTION

2. 116 Nauset St., China Lantern Restaurant Request for Hearing Re: Expired Food Establishment Permit; Sanitary Food Code and Safety Violations; Kenneth Leung, Owner, Michael Antaya, Chief Sanitarian; Fardin Ghanimat, Sanitarian; Ron Leger, Sanitarian; Nicholas Charest, Public Health Compliance Officer.

Mr. Antaya appeared before the Board and stated on October 18, 2011 that he along with, Ron Leger and Fardin Ghanimat, Health Department Sanitarians conducted a routine food safety inspection at the China Lantern at 116 Nauset St. There were several food safety violations. There were several items in the walk in coolers exposed and uncovered. Recently they had put Mr. Leung on a master sanitation schedule that basically shows their daily, weekly and monthly cleaning. However, there was evidence that it was not being followed. There was also evidence of tobacco use in the kitchen, gasoline containers on the floor in kitchen area including numerous dead and live insects found in kitchen throughout the facility and numerous ceiling tiles in the kitchen and dining area that needed to be replaced or repaired due to water damage. Fire prevention was called to address fire safety code violations. Mr. Leung had not applied for his 2012 food permit and was operating without a valid food permit since June 30, 2011. All of these violations warranted immediate suspension of business and he was ordered closed on October 18, 2011.

Since that time Mr. Leung has made improvements to sanitation issues. There is a 75% increase in overall sanitation that has been done. Mr. Leung has come into the office to apply for his 2012 permit and because he has improved in his level of sanitation we have given him a 90 day provisional permit to operate provided that he follows through with all of the steps detailed in an agreement drafted between both parties which requires that Mr. Leung contract with a HACCP Consultant to assist with staff training and standard operating procedures to insure compliance with state sanitary food and building codes.

Attorney Christopher Markey, Legal Counsel representing Mr. Leung appeared before the Board and stated he has taken steps to improve food safety as well as other issues. He stated Mr. Leung knows how serious

this is and will do everything to correct these violations.

MOTION: by Dr. Schweidenback that the agreement between the City of New Bedford and China Lantern is accepted by the Board of Health and enforced by the Board of Health. SECONDED: Dr. Andrade. All in favor. MOTION CARRIES.

3. Review/discuss public comments submitted at the Public Hearing held on 10/20/11 at 7

p.m. at Keith Middle School regarding the proposed amended Board of Health Tobacco Control Regulations related to Youth Access and Nicotine Delivery Products, as well as, Smoke Free Workplace and Public Places. Accept any additional written public comments submitted via email or via U.S. Mail received during the ten days public comment period which ended on 10/31/11.

Invitees: Marianne De Souza, Director of Public Health

Nicholas Charest, Public Health Compliance Officer

Attorney Donald J. Wilson, Massachusetts Municipal Association

Mr. Charest appeared before the Board and stated after their hearing on 10/20/11 we did receive a number of comments and testimony which Ms. De Souza has documented. Mr. Charest discussed some of the finer points of the regulations, including ban on tobacco sales in health care institutions, cigar packaging, e-cigarettes and smoking pro and possible effective dates if the Board decides they can vote on this today. Mr. Charest discussed the Youth Access regulations restricting the sale of tobacco products and Nicotine Delivery Products.

The Board of Health accepted some additional feedback from Attorney D.J. Wilson regarding the status of similar regulations that have been past or under consideration in many other communities in Massachusetts. The New Bedford Board considered the public comment and recommendation from Ms. De Souza to consult with Renee Dufour, Director of Operations for Parks, Recreation, and Beaches before taking any action to ban smoking at these locations in the city. The Board decided to move forward with adoption of the regulations with minor modifications in the Smoke Free Workplace Regulation. Mr. Charest also discussed the banning of tobacco vending machines which goes into effect January 1, 2012.

The Board took a vote on the amended regulation. It was agreed that the legal notice would appear in the November 13, 2011 issue of the Standard Times for both regulations that were being amended.

4. Possible Motion to vote to amend and/or adopt the Board of Health Tobacco Control Regulations related to Youth Access and Nicotine Delivery Products.

MOTION: by Dr. Xifaras to accept the amended regulations of the Tobacco Control Program restricting the sale of tobacco products and Nicotine Delivery Products effective January 1, 2012 except Section H will be April 1, 2012 to be implemented. SECONDED: Dr. Andrade. All in favor. MOTION CARRIES.

5. Possible Motion to vote to amend and/or adopt the Board of Health Tobacco Control Regulations related to Smoke Free Workplaces and Public Places.

Mr. Charest discussed highlighted items with the Board in regards to the Tobacco Control Regulations regarding Smoke Free Workplaces and Public Places. The items that were discussed included the definition of cigarettes and nicotine delivery products and cigar minimum packaging requirements that were added. After some discussion, the Board agreed to delay adopting a smoking ban in city outdoor spaces including playgrounds, parks, beach, pool areas, and outdoor athletic spaces pending further discussion with Renee Dufour, Director of Parks, Recreation, and Beaches. The Board did favor adopting the 25 ft. perimeter ban on smoking from all entrances, exits and windows which would reduce smoking in City Hall Square area. Ms. De Souza advised the Board that planning in collaboration with various department heads, Southcoast Hospitals

System, and the Greater New Bedford Community Health Center is needed to design appropriate signage for municipal buildings and to insure that tobacco cessation resources are made available to assist smokers that will be impacted by the regulatory changes. The Board decided to discuss all of Section C in the next Board meeting.

MOTION: by Dr. Xifaras to accept the amendment to prohibiting smoking in Workplaces and Public Places except for Section C which we will table to our next meeting in December. Regulation will be implemented effective January 1, 2012. SECONDED: Dr. Andrade. All in favor. MOTION CARRIES.

6. Review/discuss and vote on proposed fee schedule to cover the cost of researching and printing frequently requested forms/reports/documents that do not require a full FOIA process.

Ms De Souza discussed the need for the Board to establish a reasonable fee schedule to cover the cost for provided clients with frequently requested forms/reports/documents that do not warrant a full FOIA review. Dr. Andrade stated there should be a minimum basic fee if it entails a one page copy and then additional fees thereafter. This item will be reconsidered at the next scheduled Board meeting in December.

#### OTHER

7. Miscellaneous Updates related to Seasonal Flu Vaccine Clinic for Municipal Employees on November 4, 2011 at New Bedford High School; Health Homes Initiative; Legislature Breakfast and School Health and Wellness Policy updates.

Ms. De Souza stated that the NBPS School Wellness Policy was still pending a final vote of approval by the School Committee. The GNB Allies and Fall River Partners' Legislative Breakfast went very well and was the best attended in twelve year history with 213 attendees which had a strong focus on healthy food choices in schools. The Flu Vaccine Clinic for Municipal Employees, Board and Commission Members, and appointed or elected officials is scheduled to take place on Friday, November 4<sup>th</sup> at New Bedford High School in the Gymnasium.

#### MOTION TO ADJOURN

The next meeting of the Board of Health will be Thursday, December 15, 2011, at 8:30 a.m.

MOTION: by Dr. Schweidenback to adjourn the meeting. SECONDED: Dr. Andrade. All in favor. MOTION CARRIES.

Dr. Andrade adjourned the meeting at 10:15 a.m.

After closing the regularly scheduled meeting, Dr. Patricia Andrade agreed to go into Executive Session at the request of Ms. DeSouza to discuss sensitive personnel issues and concerns related to 10/24/11 City Council Meeting.

A true record attest:



Mariana B. De Souza  
Director of Public Health

BOH Meeting Minutes Approved 12/15/11